

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

.
.
.

Representative Sansom offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause, and insert:

Section 1. Section 175.1015, Florida Statutes, is created to read:

175.1015 Determination of local premium tax situs.--

(1)(a) Any insurance company that is obligated to report and remit the excise tax on property insurance premiums imposed under s. 175.101 shall be held harmless from any liability for taxes, interest, or penalties that would otherwise be due solely as a result of an assignment of an insured property to an incorrect local taxing jurisdiction if the insurance company exercises due diligence in applying an electronic database provided by the Department of Revenue under subsection (2). Insurance companies that do not use the electronic database

Amendment No. (for drafter's use only)

28 provided by the Department of Revenue or that do not exercise
29 due diligence in applying the electronic database are subject to
30 a 0.5-percent penalty on the portion of the premium pertaining
31 to any insured risk that is improperly assigned, whether
32 assigned to an improper local taxing jurisdiction, not assigned
33 to a local taxing jurisdiction when it should be assigned to a
34 local taxing jurisdiction, or assigned to a local taxing
35 jurisdiction when it should not be assigned to a local taxing
36 jurisdiction.

37 (b) Any insurance company that is obligated to report and
38 remit the excise tax on commercial property insurance premiums
39 imposed under s. 175.101 and is unable, after due diligence, to
40 assign an insured property to a specific local taxing
41 jurisdiction for purposes of complying with paragraph (a) shall
42 remit the excise tax on commercial property insurance premiums
43 using a methodology of apportionment in a manner consistent with
44 the remittance for the 2002 calendar year.

45 (2)(a) The Department of Revenue shall, subject to
46 legislative appropriation, create as soon as practicable and
47 feasible, and thereafter shall maintain, an electronic database
48 that conforms to any format approved by the American National
49 Standards Institute's Accredited Standards Committee X12 and
50 that designates for each street address and address range in the
51 state, including any multiple postal street addresses applicable
52 to one street location, the local taxing jurisdiction in which
53 the street address and address range is located, and the
54 appropriate code for each such participating local taxing
55 jurisdiction, identified by one nationwide standard numeric
56 code. The nationwide standard numeric code must contain the same

886329

Amendment No. (for drafter's use only)

57 number of numeric digits, and each digit or combination of
58 digits must refer to the same level of taxing jurisdiction
59 throughout the United States and must be in a format similar to
60 FIPS 55-3 or other appropriate standard approved by the
61 Federation of Tax Administrators and the Multistate Tax
62 Commission. Each address or address range must be provided in
63 standard postal format, including the street number, street
64 number range, street name, and zip code. Each year after the
65 creation of the initial database, the Department of Revenue
66 shall annually create and maintain a database for the current
67 tax year. Each annual database must be calendar-year specific.

68 (b)1. Each participating local taxing jurisdiction shall
69 furnish to the Department of Revenue all information needed to
70 create the electronic database as soon as practicable and
71 feasible. The information furnished to the Department of Revenue
72 must specify an effective date.

73 2. Each participating local taxing jurisdiction shall
74 furnish to the Department of Revenue all information needed to
75 create and update the current year's database, including changes
76 in annexations, incorporations, and reorganizations and any
77 other changes in jurisdictional boundaries, as well as changes
78 in eligibility to participate in the excise tax imposed under
79 this chapter. The information must specify an effective date and
80 must be furnished to the Department of Revenue by July 1 of the
81 current year.

82 3. The Department of Revenue shall create and update the
83 current year's database in accordance with the information
84 furnished by participating local taxing jurisdictions under
85 subparagraph 1. or subparagraph 2., as appropriate. To the

886329

Amendment No. (for drafter's use only)

86 extent practicable, the Department of Revenue shall post each
87 new annual database on a web site by September 1 of each year.
88 Each participating local taxing jurisdiction shall have access
89 to this web site and, within 30 days thereafter, shall provide
90 any corrections to the Department of Revenue. The Department of
91 Revenue shall finalize the current year's database and post it
92 on a web site by November 1 of the tax year. If a dispute in
93 jurisdictional boundaries cannot be resolved so that changes in
94 boundaries may be included, as appropriate, in the database by
95 November 1, the changes may not be retroactively included in the
96 current year's database and the boundaries will remain the same
97 as in the previous year's database. The finalized database must
98 be used in assigning policies and premiums to the proper local
99 taxing jurisdiction for the insurance premium tax return due on
100 the following March 1. The Department of Revenue shall furnish
101 the annual database on magnetic or electronic media to any
102 insurance company or vendor that requests the database for the
103 sole purpose of assigning insurance premiums to the proper local
104 taxing jurisdiction for the excise tax imposed under this
105 chapter. Information contained in the electronic database is
106 conclusive for purposes of this chapter. The electronic database
107 is not an order, a rule, or a policy of general applicability.

108 4. Each annual database must identify the additions,
109 deletions, and other changes to the preceding version of the
110 database.

111 (3)(a) As used in this section, the term "due diligence"
112 means the care and attention that is expected from and is
113 ordinarily exercised by a reasonable and prudent person under
114 the circumstances.

886329

Amendment No. (for drafter's use only)

115 (b) Notwithstanding any law to the contrary, an insurance
116 company is exercising due diligence if the insurance company
117 complies with the provisions of paragraph (1)(b) or if the
118 insurance company assigns an insured's premium to local taxing
119 jurisdictions in accordance with the Department of Revenue's
120 annual database and:

121 1. Expends reasonable resources to accurately and reliably
122 implement such method;

123 2. Maintains adequate internal controls to correctly
124 include in its database of policyholders the location of the
125 property insured, in the proper address format, so that matching
126 with the department's database is accurate; and

127 3. Corrects errors in the assignment of addresses to local
128 taxing jurisdictions within 120 days after the insurance company
129 discovers the errors.

130 (4) There is annually appropriated from the moneys
131 collected under this chapter and deposited in the Police and
132 Firefighter's Premium Tax Trust Fund an amount sufficient to pay
133 the expenses of the Department of Revenue in administering this
134 section, but not to exceed \$50,000 annually, adjusted annually
135 by the lesser of a 5-percent increase or the percentage of
136 growth in the total collections.

137 (5) The Department of Revenue shall adopt rules necessary
138 to administer this section, including rules establishing
139 procedures and forms.

140 (6) Any insurer that is obligated to collect and remit the
141 tax on property insurance imposed under s. 175.101 shall be held
142 harmless from any liability for taxes, interest, or penalties
143 that would otherwise be due solely as a result of an assignment

Amendment No. (for drafter's use only)

144 of an insured property to an incorrect local taxing
145 jurisdiction, based on the collection and remission of the tax
146 accruing before January 1, 2004, if the insurer collects and
147 reports this tax consistent with filings for periods before
148 January 1, 2004. Further, any insurer that is obligated to
149 collect and remit the tax on property insurance imposed under
150 this section is not subject to an examination under s. 624.316
151 or s. 624.3161 which would occur solely as a result of an
152 assignment of an insured property to an incorrect local taxing
153 jurisdiction, based on the collection and remission of such tax
154 accruing before January 1, 2004.

155 Section 2. Section 185.085, Florida Statutes, is created
156 to read:

157 185.085 Determination of local premium tax situs.--

158 (1)(a) Any insurance company that is obligated to report
159 and remit the excise tax on casualty insurance premiums imposed
160 under s. 185.08 shall be held harmless from any liability for
161 taxes, interest, or penalties that would otherwise be due solely
162 as a result of an assignment of an insured property to an
163 incorrect local taxing jurisdiction if the insurance company
164 exercises due diligence in applying an electronic database
165 provided by the Department of Revenue under subsection (2).
166 Insurance companies that do not use the electronic database
167 provided by the Department of Revenue or that do not exercise
168 due diligence in applying the electronic database are subject to
169 a 0.5-percent penalty on the portion of the premium pertaining
170 to any insured risk that is improperly assigned, whether
171 assigned to an improper local taxing jurisdiction, not assigned
172 to a local taxing jurisdiction when it should be assigned to a

886329

Amendment No. (for drafter's use only)

173 local taxing jurisdiction, or assigned to a local taxing
174 jurisdiction when it should not be assigned to a local taxing
175 jurisdiction.

176 (b) Any insurance company that is obligated to report and
177 remit the excise tax on commercial casualty insurance premiums
178 imposed under s. 185.08 and is unable, after due diligence, to
179 assign an insured property to a specific local taxing
180 jurisdiction for purposes of complying with paragraph(a) shall
181 remit the excise tax on commercial casualty insurance premiums
182 using a methodology of apportionment in a manner consistent with
183 the remittance for the 2002 calendar year.

184 (2)(a) The Department of Revenue shall, subject to
185 legislative appropriation, create as soon as practicable and
186 feasible, and thereafter shall maintain, an electronic database
187 that conforms to any format approved by the American National
188 Standards Institute's Accredited Standards Committee X12 and
189 that designates for each street address and address range in the
190 state, including any multiple postal street addresses applicable
191 to one street location, the local taxing jurisdiction in which
192 the street address and address range is located, and the
193 appropriate code for each such participating local taxing
194 jurisdiction, identified by one nationwide standard numeric
195 code. The nationwide standard numeric code must contain the same
196 number of numeric digits, and each digit or combination of
197 digits must refer to the same level of taxing jurisdiction
198 throughout the United States and must be in a format similar to
199 FIPS 55-3 or other appropriate standard approved by the
200 Federation of Tax Administrators and the Multistate Tax
201 Commission. Each address or address range must be provided in

886329

Amendment No. (for drafter's use only)

202 standard postal format, including the street number, street
203 number range, street name, and zip code. Each year after the
204 creation of the initial database, the Department of Revenue
205 shall annually create and maintain a database for the current
206 tax year. Each annual database must be calendar-year specific.

207 (b)1. Each participating local taxing jurisdiction shall
208 furnish to the Department of Revenue all information needed to
209 create the electronic database as soon as practicable and
210 feasible. The information furnished to the Department of Revenue
211 must specify an effective date.

212 2. Each participating local taxing jurisdiction shall
213 furnish to the Department of Revenue all information needed to
214 create and update the current year's database, including changes
215 in annexations, incorporations, and reorganizations and any
216 other changes in jurisdictional boundaries, as well as changes
217 in eligibility to participate in the excise tax imposed under
218 this chapter. The information must specify an effective date and
219 must be furnished to the Department of Revenue by July 1 of the
220 current year.

221 3. The Department of Revenue shall create and update the
222 current year's database in accordance with the information
223 furnished by participating local taxing jurisdictions under
224 subparagraph 1. or subparagraph 2., as appropriate. To the
225 extent practicable, the Department of Revenue shall post each
226 new annual database on a web site by September 1 of each year.
227 Each participating local taxing jurisdiction shall have access
228 to this web site and, within 30 days thereafter, shall provide
229 any corrections to the Department of Revenue. The Department of
230 Revenue shall finalize the current year's database and post it

886329

Amendment No. (for drafter's use only)

231 on a web site by November 1 of the tax year. If a dispute in
232 jurisdictional boundaries cannot be resolved so that changes in
233 boundaries may be included, as appropriate, in the database by
234 November 1, the changes may not be retroactively included in the
235 current year's database and the boundaries will remain the same
236 as in the previous year's database. The finalized database must
237 be used in assigning policies and premiums to the proper local
238 taxing jurisdiction for the insurance premium tax return due on
239 the following March 1. The Department of Revenue shall furnish
240 the annual database on magnetic or electronic media to any
241 insurance company or vendor that requests the database for the
242 sole purpose of assigning insurance premiums to the proper local
243 taxing jurisdiction for the excise tax imposed under this
244 chapter. Information contained in the electronic database is
245 conclusive for purposes of this chapter. The electronic database
246 is not an order, a rule, or a policy of general applicability.

247 4. Each annual database must identify the additions,
248 deletions, and other changes to the preceding version of the
249 database.

250 (3)(a) As used in this section, the term "due diligence"
251 means the care and attention that is expected from and is
252 ordinarily exercised by a reasonable and prudent person under
253 the circumstances.

254 (b) Notwithstanding any law to the contrary, an insurance
255 company is exercising due diligence if the insurance company
256 complies with the provisions of paragraph (1)(b) or if the
257 insurance company assigns an insured's premium to local taxing
258 jurisdictions in accordance with the Department of Revenue's
259 annual database and:

886329

Amendment No. (for drafter's use only)

260 1. Expends reasonable resources to accurately and reliably
261 implement such method;

262 2. Maintains adequate internal controls to correctly
263 include in its database of policyholders the location of the
264 property insured, in the proper address format, so that matching
265 with the department's database is accurate; and

266 3. Corrects errors in the assignment of addresses to local
267 taxing jurisdictions within 120 days after the insurance company
268 discovers the errors.

269 (4) There is annually appropriated from the moneys
270 collected under this chapter and deposited in the Police and
271 Firefighter's Premium Tax Trust Fund an amount sufficient to pay
272 the expenses of the Department of Revenue in administering this
273 section, but not to exceed \$50,000 annually, adjusted annually
274 by the lesser of a 5-percent increase or the percentage of
275 growth in the total collections.

276 (5) The Department of Revenue shall adopt rules necessary
277 to administer this section, including rules establishing
278 procedures and forms.

279 (6)(a) Notwithstanding any other law, no methodology,
280 formula, or database that is adopted in any year after January
281 1, 2004, may result in a distribution to a participating
282 municipality that has a retirement plan created pursuant to this
283 chapter of an amount of excise tax which is less than the amount
284 distributed to such participating municipality for calendar year
285 2003. However, if the total proceeds to be distributed for the
286 current year from the excise tax imposed under s. 185.08 are
287 less than the total amount distributed for calendar year 2003,
288 each participating municipality shall receive a current year

886329

Amendment No. (for drafter's use only)

289 distribution that is proportionate to its share of the total
290 2003 calendar year distribution. If the total of the proceeds to
291 be distributed for the current year from the excise tax imposed
292 under s. 185.08 are greater than or equal to the total amount
293 distributed for calendar year 2003, each participating
294 municipality shall initially be distributed a minimum amount
295 equal to the amount received for calendar year 2003. The
296 remaining amount to be distributed for the current year, which
297 equals the total to be distributed for the current year, less
298 minimum distribution amount, shall be distributed to those
299 municipalities with a current-year reported amount that is
300 greater than the amount distributed to such municipality for
301 calendar year 2003. Each municipality eligible for distribution
302 of this remaining amount shall receive its proportionate share
303 of the remaining amount based upon the amount reported for that
304 municipality, above the calendar year 2003 distribution for the
305 current year, to the total amount over the calendar year 2003
306 distribution for all municipalities with a current year reported
307 amount that is greater than the calendar year 2003 distribution.

308 (b) If a new municipality elects to participate under this
309 chapter during any year after January 1, 2004, such municipality
310 shall receive the total amount reported for the current year for
311 such municipality. All other participating municipalities shall
312 receive a current year distribution, calculated as provided in
313 this section, which is proportionate to their share of the total
314 2003 calendar year distribution after subtracting the amount
315 paid to the new participating plans.

316 (c) This subsection expires January 1, 2007.

Amendment No. (for drafter's use only)

317 (7) Any insurer that is obligated to collect and remit the
318 tax on casualty insurance imposed under s. 185.08 shall be held
319 harmless from any liability for taxes, interest, or penalties
320 that would otherwise be due solely as a result of an assignment
321 of an insured risk to an incorrect local taxing jurisdiction,
322 based on the collection and remission of the tax accruing before
323 January 1, 2004, if the insurer collects and reports this tax
324 consistent with filings for periods before January 1, 2004.
325 Further, any insurer that is obligated to collect and remit the
326 tax on casualty insurance imposed under this section is not
327 subject to an examination under s. 624.316 or s. 624.3161 which
328 would occur solely as a result of an assignment of an insured
329 risk to an incorrect local taxing jurisdiction, based on the
330 collection and remission of such tax accruing before the
331 effective date of this section.

332 Section 3. Subsection (1) of section 175.351, Florida
333 Statutes, is amended to read:

334 175.351 Municipalities and special fire control districts
335 having their own pension plans for firefighters.--For any
336 municipality, special fire control district, local law
337 municipality, local law special fire control district, or local
338 law plan under this chapter, in order for municipalities and
339 special fire control districts with their own pension plans for
340 firefighters, or for firefighters and police officers, where
341 included, to participate in the distribution of the tax fund
342 established pursuant to s. 175.101, local law plans must meet
343 the minimum benefits and minimum standards set forth in this
344 chapter.

Amendment No. (for drafter's use only)

345 (1) PREMIUM TAX INCOME.--If a municipality has a pension
346 plan for firefighters, or a pension plan for firefighters and
347 police officers, where included, which in the opinion of the
348 division meets the minimum benefits and minimum standards set
349 forth in this chapter, the board of trustees of the pension
350 plan, as approved by a majority of firefighters of the
351 municipality, may:

352 (a) Place the income from the premium tax in s. 175.101 in
353 such pension plan for the sole and exclusive use of its
354 firefighters, or for firefighters and police officers, where
355 included, where it shall become an integral part of that pension
356 plan and shall be used to pay extra benefits to the firefighters
357 included in that pension plan; or

358 (b) Place the income from the premium tax in s. 175.101 in
359 a separate supplemental plan to pay extra benefits to
360 firefighters, or to firefighters and police officers where
361 included, participating in such separate supplemental plan.

362
363 The premium tax provided by this chapter shall in all cases be
364 used in its entirety to provide extra benefits to firefighters,
365 or to firefighters and police officers, where included.

366 However, local law plans in effect on October 1, 1998, shall be
367 required to comply with the minimum benefit provisions of this
368 chapter only to the extent that additional premium tax revenues
369 become available to incrementally fund the cost of such
370 compliance as provided in s. 175.162(2)(a). When a plan is in
371 compliance with such minimum benefit provisions, as subsequent
372 additional premium tax revenues become available, they shall be
373 used to provide extra benefits. For the purpose of this chapter,

886329

Amendment No. (for drafter's use only)

374 "additional premium tax revenues" means revenues received by a
375 municipality or special fire control district pursuant to s.
376 175.121 which ~~that~~ exceed that amount received for calendar year
377 1997, and the term "extra benefits" means benefits in addition
378 to or greater than those provided to general employees of the
379 municipality and in addition to those in existence for
380 firefighters on March 12, 1999. Local law plans created by
381 special act before May 23, 1939, shall be deemed to comply with
382 this chapter.

383 Section 4. Subsection (1) of section 185.35, Florida
384 Statutes, is amended to read:

385 185.35 Municipalities having their own pension plans for
386 police officers.--For any municipality, chapter plan, local law
387 municipality, or local law plan under this chapter, in order for
388 municipalities with their own pension plans for police officers,
389 or for police officers and firefighters where included, to
390 participate in the distribution of the tax fund established
391 pursuant to s. 185.08, local law plans must meet the minimum
392 benefits and minimum standards set forth in this chapter:

393 (1) PREMIUM TAX INCOME.--If a municipality has a pension
394 plan for police officers, or for police officers and
395 firefighters where included, which, in the opinion of the
396 division, meets the minimum benefits and minimum standards set
397 forth in this chapter, the board of trustees of the pension
398 plan, as approved by a majority of police officers of the
399 municipality, may:

400 (a) Place the income from the premium tax in s. 185.08 in
401 such pension plan for the sole and exclusive use of its police
402 officers, or its police officers and firefighters where

886329

Amendment No. (for drafter's use only)

403 included, where it shall become an integral part of that pension
404 plan and shall be used to pay extra benefits to the police
405 officers included in that pension plan; or

406 (b) May place the income from the premium tax in s. 185.08
407 in a separate supplemental plan to pay extra benefits to the
408 police officers, or police officers and firefighters where
409 included, participating in such separate supplemental plan.

410

411 The premium tax provided by this chapter shall in all cases be
412 used in its entirety to provide extra benefits to police
413 officers, or to police officers and firefighters, where
414 included. However, local law plans in effect on October 1,
415 1998, shall be required to comply with the minimum benefit
416 provisions of this chapter only to the extent that additional
417 premium tax revenues become available to incrementally fund the
418 cost of such compliance as provided in s. 185.16(2). When a plan
419 is in compliance with such minimum benefit provisions, as
420 subsequent additional tax revenues become available, they shall
421 be used to provide extra benefits. For the purpose of this
422 chapter, "additional premium tax revenues" means revenues
423 received by a municipality pursuant to s. 185.10 which that
424 exceed the amount received for calendar year 1997, and the term
425 "extra benefits" means benefits in addition to or greater than
426 those provided to general employees of the municipality and in
427 addition to those in existence for police officers on March 12,
428 1999. Local law plans created by special act before May 23,
429 1939, shall be deemed to comply with this chapter.

430 Section 5. Subsection (7) is added to section 175.061,
431 Florida Statutes, to read:

886329

Amendment No. (for drafter's use only)

432 175.061 Board of trustees; members; terms of office;
433 meetings; legal entity; costs; attorney's fees.--For any
434 municipality, special fire control district, chapter plan, local
435 law municipality, local law special fire control district, or
436 local law plan under this chapter:

437 (7) The board of trustees may, upon written request by the
438 retiree of the plan, or by a dependent, when authorized by the
439 retiree or the retiree's beneficiary, authorize the plan
440 administrator to withhold from the monthly retirement payment
441 those funds that are necessary to pay for the benefits being
442 received through the governmental entity from which the employee
443 retired, to pay the certified bargaining agent of the
444 governmental entity, and to make any payments required by law.

445 Section 6. Present subsection (6) of section 185.05,
446 Florida Statutes, is renumbered as subsection (7), and a new
447 subsection (6) is added to said section, to read:

448 185.05 Board of trustees; members; terms of office;
449 meetings; legal entity; costs; attorney's fees.--For any
450 municipality, chapter plan, local law municipality, or local law
451 plan under this chapter:

452 (6) The board of trustees may, upon written request by the
453 retiree of the plan, or by a dependent, when authorized by the
454 retiree or the retiree's beneficiary, authorize the plan
455 administrator to withhold from the monthly retirement payment
456 those funds that are necessary to pay for the benefits being
457 received through the governmental entity from which the employee
458 retired, to pay the certified bargaining agent of the
459 governmental entity, and to make any payments required by law.

Amendment No. (for drafter's use only)

460 Section 7. The sum of \$300,000 is appropriated from the
461 General Revenue Fund to the Department of Revenue for the one-
462 time expense of creating the original database called for by
463 sections 1 and 2 of this act, and to support the implementation
464 process for use of the database. It is the intent of the
465 Legislature in providing this appropriation that the database
466 for sections 1 and 2 of this act be available for use in
467 determining the allocation of premiums to the various
468 municipalities and special fire control districts for the 2004
469 insurance premium tax return that is due by March 1, 2005.

470 Section 8. If any law amended by this act was also amended
471 by a law enacted at the 2003 Regular Session of the Legislature
472 or at the 2003 Special Session A of the Legislature, such laws
473 shall be construed as if they had been enacted at the same
474 session of the Legislature, and full effect shall be given to
475 each if possible.

476 Section 9. This act shall take effect January 1, 2004.

477

478 ===== T I T L E A M E N D M E N T =====

479 Remove the entire title, and insert:
480 An act relating to firefighter and municipal police
481 pensions; creating s. 175.1015, F.S.; authorizing the
482 Department of Revenue to create and maintain a database
483 for use by insurers that report and remit an excise tax
484 on property insurance premiums; providing insurers with
485 incentives for using the database; providing penalties
486 for failure to use the database; requiring local
487 governments to provide information to the department;
488 appropriating funds to the department for the

Amendment No. (for drafter's use only)

489 administration of the database; authorizing the
490 department to adopt rules; creating s. 185.085, F.S.;
491 authorizing the Department of Revenue to create and
492 maintain a database for use by insurers that report and
493 remit an excise tax on casualty insurers premiums;
494 providing incentives to insurers for using the database
495 and penalties for failure to use the database; requiring
496 local governments to provide information to the
497 department; appropriating funds to the department for the
498 administration of the database; authorizing the
499 department to adopt rules; providing for distribution of
500 tax revenues through 2007; amending s. 175.351, F.S.;
501 defining the term "extra benefits" with respect to
502 pension plans for firefighters; amending s. 185.35, F.S.;
503 providing for the meaning of the term "extra benefits"
504 with respect to pension plans for municipal police
505 officers; amending s. 175.061, F.S.; authorizing the plan
506 administrator to withhold certain funds; amending s.
507 185.05, F.S.; authorizing the plan administrator to
508 withhold certain funds; providing an appropriation to the
509 Department of Revenue; providing for construction of the
510 act in pari materia with laws enacted during the 2003
511 Regular Session or the 2003 Special Session A of the
512 Legislature; providing an effective date.